

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

CRIMINAL PETITION No.5333 of 2025

ORDER:

This Criminal Petition is filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS') by the petitioners/accused Nos.5 to 7, seeking anticipatory bail in Crime No.54 of 2025 of Tanoor Police Station, Nirmal District registered for the offences punishable under Sections 109, 61(2), 121(1), 296, 196(2), 126(2) r/w 3(5) of the Bharatiya Nyaya Sanhitha, 2023 (for short 'BNS').

2. Heard Sri Naresh Reddy Chinnolla, learned counsel for the petitioners and Sri Syed Yasar Mamoon, learned Additional Public Prosecutor appearing for respondent-State.

3. The case of prosecution in brief is that the complainant-Abdul Vakeel is resident of Bhainsa and performing his duties as Junior Assistant at Tahsildar Office, Tanoor Mandal and he belongs to Muslim community. The accused persons are belongs to Hindu community and residents of Tanoor village. On

17.03.2025 at about 11-00 hours while the complainant coming from Bhainsa to Tanoor on his Ola Scooty by carrying the office records by folding in the saffron cloth. On seeing the same, accused No.1 followed the complainant from Bhainsa and informed to accused Nos.2 and 3, who in turn informed the same to accused Nos.4 to 7. Further accused Nos.1 to 7 made criminal conspiracy and hatched a plan with intend to kill the complainant as he belongs to Muslim community and to create communal problem and to disturb the public peace and tranquility. On execution of their plan, accused Nos.2 to 7 were waited near toddy shop of Borigaon village and at about 11-30 hours when the complainant reached there, accused Nos.1 to 7 were attacked him with sticks, helmet and stones with an intention to kill him. As a result, he received injuries over his back, face and shoulders. On seeing the same, LWs.2 to 4 namely Shebaz khan, Sayyad Thofiq and Althaf Khan have rescued him.

4.1 Learned counsel for the petitioners submitted that the petitioners have not committed any offence and they were falsely implicated in the present crime. Even according to the allegations made in the complaint, the

ingredients of Section 109 of BNS are not attracted and except the said offence, all the other offences are punishable with imprisonment of below seven years. He further submitted that accused Nos.1 to 4 were arrested on 18.03.2025 and on their production, the Judicial First Class Magistrate, Bhainsa, specifically rejected the remand for the offence under Section 109 of BNS on the ground that the ingredients of Section 109 of BNS are not attracted to them, however, accused Nos.1 to 4 were remanded to the judicial custody for the remaining offences. Thereafter, accused Nos.1 to 4 were enlarged on bail.

4.2 He further submitted that during the course of judicial custody, the Investigating Officer has not filed any application seeking custodial interrogation of accused Nos.1 to 4. The material part of the investigation is completed and the petitioners are ready and willing to cooperate with the investigation pending if any and they will abide by the conditions, which are going to be imposed by this Court. He also submitted that the petitioners are not having any criminal antecedents. Hence, prayed to grant anticipatory bail to the petitioners.

5. *Per contra*, learned Additional Public Prosecutor submitted that the petitioners have committed a grave offence and the investigation is under progress and therefore, if the petitioners are granted anticipatory bail, they will interfere with the investigation and tried to influence the witnesses and therefore, they are not entitled for grant of anticipatory bail.

6. Having considered the rival submissions made by the respective parties and after perusal of the material available on record, it reveals that basing on the complaint lodged by the complainant, this crime was registered on 17.03.2025 against the petitioners and other accused. The record further reveals that accused Nos.1 to 4 were arrested on 18.03.2025 and on their production, the Judicial First Class Magistrate, Bhainsa, refused to accept their remand in respect of the offence under Section 109 of BNS, however, accepted their remand for the remaining offences. It is not in dispute that accused Nos.1 to 4 were already released on bail. Even according to the learned Additional Public Prosecutor, the petitioners are not having any criminal antecedents. Except the offence under Section 109 of BNS, all the other offences are

punishable with imprisonment of below seven years. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners/accused Nos.5 to 7, subject to the following conditions:

- i) The petitioners/accused Nos.5 to 7 are directed to surrender before the S.H.O., Tanoor Police Station, on or before 30.04.2025 and on such surrender, the Station House Officer is directed to release the petitioners on bail on each of them executing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only), with two sureties for a like sum each to his satisfaction.
- ii) After release, the petitioners/accused Nos.5 to 7 shall appear before the concerned S.H.O. at 11-00 a.m. on every Monday for a period of eight weeks or till filing of charge sheet, whichever is earlier, for the purpose of investigation and thereafter, as and when required.
- iii) After release, the petitioners/accused Nos.5 to 7 shall not interfere with the investigation or influence the witnesses during the course of investigation.
- iv) After release, if the petitioners/accused Nos.5 to 7 involves in similar type of offences, respondent/State is entitled to file an application seeking for cancellation of this anticipatory bail.
- v) The petitioners/accused Nos.5 to 7 shall abide by the conditions stipulated under Section 482 (2) of BNSS.

7. Accordingly, the Criminal Petition is allowed.

As a sequel thereto, miscellaneous applications, if any, pending in this petition stand closed.

JUSTICE J.SREENIVAS RAO

Date: 23.04.2025
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